

**PROPOSED REGULATION OF THE
OFFICE OF ENERGY**

LCB FILE NO. R128-18I

**The following document is the initial draft regulation proposed
by the agency submitted on 06/01/2018**

|

GREEN BUILDINGS: ELIGIBILITY FOR PARTIAL ABATEMENT OF PROPERTY TAXES

~~— NAC 701A.160 — “Pre-2007 applicant” defined. (§ 15.5 of ch. 539, Stats. 2007) — “Pre-2007 applicant” means an applicant for a partial tax abatement for a construction project that includes a building or other structure:~~

~~— 1. — Which is constructed pursuant to a preconstruction or construction contract executed on or before December 31, 2005;~~

~~— 2. — Which is part of a construction project for which the Office of Energy Project Registration Form was filed with and received by the Office of Energy pursuant to the provisions of former NAC 701.480 NAC 701.480; and~~

~~— 3. — For which an opinion letter was issued by the Department of Taxation before February 1, 2007, stating that the project will qualify for a partial sales and use tax exemption under Assembly Bill No. 3 (Special Session 2005) if certain conditions are met.~~

~~— (Added to NAC by Office of Energy by R116-07, eff. 12-4-2007)~~

~~— NAC 701A.170 — “Pre-2007 Green Building Rating System” defined. (§ 15.5 of ch. 539, Stats. 2007) — “Pre-2007 Green Building Rating System” means the LEED Green Building Rating System adopted by the Director pursuant to the provisions of former NRS 701.217, as that rating system existed before June 15, 2007, including the provisions of the regulations that are repealed by section 31 of this regulation.~~

~~— (Added to NAC by Office of Energy by R116-07, eff. 12-4-2007)~~

Intent:

Remove inapplicable language.

Reasoning:

The only PRE2007 projects that are still in the program will sunset as of June 30, 2020. There are no further PRE2007 projects submitting registration applications or proof of eligibility. Out of the 10 PRE2007 projects in the program, one sunset in June 2016, one is in the last year of the abatement and will sunset as of June 2019 and the eight remaining projects, seven of which are the City Center projects, will sunset as of June 2020. There is only one more year of compliance reporting required and the documentation that needs to be submitted can be identified on the prescribed form.

~~— NAC 701A.180 — “Preconstruction contract” defined. (§ 15.5 of ch. 539, Stats. 2007) — “Preconstruction contract” means a written and executed agreement that:~~

~~— 1. — Precedes the construction of or the execution of a construction contract for a project for which a partial tax abatement is sought;~~

~~— 2. — Clearly indicates a commitment to construct the project; and~~

~~— 3. — Is entered into to provide at least one of the following services relating to the construction project:~~

~~— (a) — Project financing;~~

- ~~—(b) Engineering;~~
- ~~—(c) Design;~~
- ~~—(d) Architecture;~~
- ~~—(e) Labor; or~~
- ~~—(f) Subcontracting.~~

Intent:

Remove inapplicable language.

Reasoning:

The only reference to “Preconstruction contract” is in the NAC 701A.160 on pre-2007 applicants which is proposed for elimination and elsewhere the NAC only refers to “construction projects” (see NAC 701A.220 as example), so this section is irrelevant.

~~—(Added to NAC by Office of Energy by R116-07, eff. 12-4-2007)~~

NAC 701A.190 “Significant change in the scope of the project” defined. (NRS 701A.110, § 15.5 of ch. 539, Stats. 2007) “Significant change in the scope of the project” means:

1. *Any change in the project which would impact the level of certification and corresponding duration of tax abatement.*

~~A change by more than 10 percent in the gross square footage of any building or other structure for which a partial tax abatement is sought;~~

~~— 2. A change in the level of certification under the applicable LEED standard or Green Globes standard being sought if the change will affect the amount of the partial tax abatement being sought; or~~

~~— 3. Any other change, including, without limitation, any change in the square footage or estimated costs of any building or other structure for which a partial tax abatement is sought, which will change the amount of the partial tax abatement being sought by more than 10 percent, except that changes resulting from increases in square footage, costs or any other factor affecting the amount of the partial tax abatement relating to the project as represented in the application therefor, including any amendments or disputed claims with a contractor or supplier relating to those costs, will not be considered a significant change in the scope of the project until they are reasonably final and known to the owner.~~

Intent:

Simplify the definition of ‘Significant Change’.

Reasoning:

The Director would need to know if the changes affect the level or duration of the abatement only, regardless of what the change is.

~~—(Added to NAC by Office of Energy by R116-07, eff. 12-4-2007; A by R127-13, 6-23-2014)~~

NAC 701A.200 LEED Green Building Rating System: Adoption of certain portions by reference; review and effect of new or updated standards. (NRS 701A.100, 701A.110, § 15.5 of ch. 539, Stats. 2007)

1. The LEED Green Building ~~Rating System~~ *Standard and the Green Globes Green Building Standard* is adopted for use in this State with regard to certain buildings or other structures for the purposes of determining eligibility for partial tax abatements *pursuant to the provisions within NRS 701A.100.*

~~—2. Except as otherwise provided in this subsection and NAC 701A.210:~~

~~—(a) The Director hereby adopts by reference all versions of the following LEED standards:~~

~~—(1) LEED-NC;~~

~~—(2) LEED-EB; and~~

~~—(3) LEED-CS.~~

~~—(b) If the U.S. Green Building Council adopts a new or updated version of a LEED standard after December 4, 2007, the Director will determine whether the new or updated version is appropriate for use in this State and, if the Director determines that the new or updated version:~~

~~(1) Is appropriate for use in this State:~~

~~(I) The new or updated version becomes effective on such a date as may be determined by the Director; and~~

~~(II) The Director will post a notice of approval, a copy of the new or updated version and the effective date thereof at the State Library, Archives and Public Records and the Office of Energy, and on the Internet website of the Office of Energy; or~~

~~(2) Is not appropriate for use in this State, the version of the LEED standard that was most recently adopted by the Director or determined to be appropriate for use in this State pursuant to this subsection continues to be effective.~~

~~3. The Director will review, evaluate and consider new and updated versions of LEED standards at least once each year.~~

~~—4. A copy of the LEED Green Building Rating System is available free of charge on the Internet website of the U.S. Green Building Council.~~

(Added to NAC by Office of Energy by R116-07, eff. 12-4-2007)

Intent:

1 – update language to identify that the most recent version of the green building rating system under both LEED and Green Globes is adopted pursuant to all of the provisions in NRS 701A.100

2- remove reference to specific rating systems under LEED; not all rating systems within the most recent version are allowed to apply for the abatement based on provisions within NRS 701A.100 disallowing homes. The Director will need to review both the new or updated versions and new or updated rating systems within that version.

Overall: Clean up language to include Green Globes within this section of NAC and add in the language regarding the rating systems within the versions. LEED and Green Globes are green building standards that are adopted by the Director. Within those standards are the most recent versions, within the version are the applicable rating systems

~~NAC 701A.210—LEED Green Building Rating System: Exclusions and modifications; use of independent third party commissioning firm by applicant for partial tax abatement. (NRS 701A.100, 701A.110, § 15.5 of ch. 539, Stats. 2007)~~

~~—1. In accordance with the provisions of NRS 701A.100, the LEED Green Building Rating System adopted by the Director pursuant to NAC 701A.200:~~

~~—(a) Does not include any LEED standard:~~

~~—(1) That has not been included in the LEED Green Building Rating System for at least 2 years at the time the applicant provides proof to the Director pursuant to NAC 701A.240 and 701A.250 that the building or other structure meets the equivalent of the silver level or higher of the LEED Green Building Rating System adopted by the Director; or~~

~~—(2) For homes:~~

~~—(b) Shall be deemed to require a building or other structure to obtain:~~

~~—(1) At least 5 points in the Optimize Energy Performance credit to meet the equivalent of the silver level;~~

~~—(2) At least 7 points in the Optimize Energy Performance credit to meet the equivalent of the gold level; and~~

~~—(3) At least 11 points in the Optimize Energy Performance credit to meet the equivalent of the platinum level.~~

~~—2. An applicant for a partial tax abatement must utilize an independent third party commissioning firm to facilitate the fundamental building systems commissioning or existing building commissioning, as applicable, required by the LEED Green Building Rating System Energy and Atmosphere Prerequisite 1.~~

~~—3. As used in this section, “home” has the meaning ascribed to it in NRS 701A.100.~~

Intent:

Remove redundant language that already exists in NRS 701A.100 and 701A.110

2 – The use of third parties to comply with the requirements of the commissioning or energy audit requirements within LEED and Green Globes is standard practice in the industry and will also be identified in the prescribed forms.

~~—(Added to NAC by Office of Energy by R116-07, eff. 12-4-2007; A by R127-13, 6-23-2014)~~

~~—NAC 701A.213—Green Globes standards: Adoption by reference; review and effect of new or updated standards. (NRS 701A.100, 701A.110)~~

~~—1. Except as otherwise provided in this subsection and NAC 701A.215:~~

~~—(a) The Director hereby adopts for use in this State the following Green Globes standards which are in effect on June 23, 2014:~~

~~—(1) GG-NC; and~~

~~—(2) GG-CIEB.~~

~~—(b) If the Green Building Initiative adopts a new or updated Green Globes standard after June 23, 2014, the Director will determine whether the new or updated standard is appropriate for use in this State and, if the Director determines that the new or updated standard:~~

~~—(1) Is appropriate in this State:~~

~~—(I) The new or updated standard becomes effective on such a date as may be determined by the Director; and~~

~~—(II) The Director will post a notice of approval and the effective date thereof at the State Library, Archives and Public Records and the Office of Energy, and on the Internet website of the Office of Energy; or~~

~~—(2) Is not appropriate in this State, the Green Globes standard that was most recently adopted by the Director or determined to be appropriate for use in this State pursuant to this subsection continues to be effective.~~

~~—2. The Director will review, evaluate and consider any new and updated Green Globes standard at least once each year.~~

Intent:

Included Green Globes standards under NAC 701A.200 – do not need to repeat again

~~—(Added to NAC by Office of Energy by R127-13, eff. 6-23-2014)~~

~~NAC 701A.215—Green Globes standards: Exclusions and modifications; use of third-party assessor by applicant for partial tax abatement. (NRS 701A.100, 701A.110)~~

~~—1. In accordance with the provisions of NRS 701A.100, the Green Globes standards adopted pursuant to NAC 701A.213:~~

~~—(a) Do not include any Green Globes standard:~~

~~— (1) That has not been a Green Globes standard for at least 2 years at the time the applicant provides proof to the Director pursuant to NAC 701A.240 and 701A.250 that the building or other structure meets the equivalent of a rating of two globes or higher under the Green Globes standard; or~~

~~— (2) For homes:~~

~~— (b) Shall be deemed to require a building or other structure to obtain:~~

~~— (1) At least 32 points for energy conservation under the Energy Performance standard of a Green Globes standard, to meet the equivalent of a rating of two globes;~~

~~— (2) At least 40 points for energy conservation under the Energy Performance standard of a Green Globes standard, to meet the equivalent of a rating of three globes; and~~

~~— (3) At least 56 points for energy conservation under the Energy Performance standard of a Green Globes standard, to meet the equivalent of a rating of four globes.~~

~~— 2. An applicant for a partial tax abatement:~~

~~— (a) Must use a third-party assessor, assigned by the Green Building Initiative, to review and verify the information submitted by the applicant and approve the project for the purpose of obtaining certification by the Green Building Initiative.~~

~~— (b) Shall submit to the Director with his or her application a copy of the report and findings of the assessor as the result of the assessment conducted pursuant to paragraph (a).~~

~~— 3. As used in this section, “home” has the meaning ascribed to it in NRS 701A.100.~~

~~— (Added to NAC by Office of Energy by R127-13, eff. 6-23-2014)~~

NAC 701A.217 Equivalencies between LEED Green Building Rating System and Green Globes standards. (NRS 701A.100, 701A.110) For the purposes of determining whether a building or other structure is eligible for a tax abatement pursuant to NRS 701A.110 and NAC 701A.010 to 701A.290, inclusive:

1. A rating of two globes under a Green Globes standard shall be deemed to be equivalent to the silver level of the LEED Green Building **Standard Rating System**.

2. A rating of three globes under a Green Globes standard shall be deemed to be equivalent to the gold level of the LEED Green Building **Standard Rating System**.

3. A rating of four globes under a Green Globes standard shall be deemed to be equivalent to the platinum level of the LEED Green Building **Standard Rating System**.

Intent:

Update language in code to be consistent with the overall changes on rating system versus standard.

Requirement for standard being in place for 2 years is already included in NRS 701A.100(2)(a)(1).

(Added to NAC by Office of Energy by R127-13, eff. 6-23-2014)

NAC 701A.220 Application for partial tax abatement; notification by Director. (NRS 701A.110, § 15.5 of ch. 539, Stats. 2007)

1. A person who, with respect to a *new* construction project involving a building or other structure, wishes to apply to the Director pursuant to this chapter and NRS 701A.110 for a partial tax abatement must, ~~if the certification of the building or other structure:~~

~~(a) Will be based on LEED-NC, LEED-CS or GG-NC, submit an application~~ *and the required supporting documentation* to the Office of Energy on a form prescribed by the Director within 120 days after receiving local government approval of the construction project; or

2. A person who, with respect to a retrofit or improvement project involving an existing building or other structure, wishes to apply to the Director pursuant to this chapter and NRS 701A.110 for a partial tax abatement must submit a registration application and the required supporting documentation to the Office of Energy on a form prescribed by the Director within 120 days after registering the project with U.S. Green Building Council or the Green Building Initiative.

Intent:

Removes the reference to the LEED rating systems and identifies the time frame for submission on the application along with what is required for a new construction project and an existing building retrofit or improvement project.

~~(b) Will be based on a LEED standard other than LEED-NC or LEED-CS or based on GG-CIEB, submit an application to the Office of Energy on a form prescribed by the Director within 120 days after registering the project with the U.S. Green Building Council or the Green Building Initiative, as applicable.~~

~~—2. The application must include:~~

~~—(a) The name, address and telephone number of the applicant;~~

~~—(b) The name and address of the owner of the affected real property, if the applicant is not the owner;~~

~~—(c) The address of the real property;~~

~~—(d) The address of the board of county commissioners of the county in which the real property is located;~~

~~—(e) If the real property is located in a city, the name and address of the city manager and the address of the city council, if any, of that city;~~

~~—(f) Any project title associated with the development or modification of the real property;~~

~~—(g) For each building or other structure included within the construction project:~~

~~—(1) The estimated gross square footage and number of floors of the building or other structure;~~

~~—(2) The proposed use of the building or other structure;~~

~~—(3) The estimated cost of the design and construction or retrofit, and maintenance and operation, of the building or other structure;~~

~~—(4) The actual or estimated date of the start of the construction or retrofit;~~

~~—(5) The expected date of occupancy of the building or other structure;~~

~~—(6) If applicable, a copy of each executed preconstruction or construction contract the applicant is relying upon to qualify as a pre-2007 applicant;~~

- ~~—— (7) Proof that the building or other structure has been registered with the U.S. Green Building Council or the Green Building Initiative, as applicable;~~
- ~~—— (8) The applicable LEED standard or Green Globes standard on which the certification of the building or other structure will be based;~~
- ~~—— (9) A statement containing the level or rating and number of points of the applicable LEED standard or Green Globes standard at which the applicant expects the building or other structure to be certified, in the form of a checklist identifying the specific credits or points that the project team intends to achieve under the applicable LEED standard or Green Globes standard;~~
- ~~—— (10) A statement whether any funding for the acquisition, design or construction of the building or other structure, and associated land, is being provided by a governmental entity in this State;~~
- ~~—— (11) A list of all sources of funding for the acquisition, design, construction or renovation of the building or other structure, and associated land, provided by a governmental entity in this State; and~~
- ~~—— (12) A statement whether the building or other structure is receiving or is expected to receive any other abatement or exemption pursuant to NRS 361.045 to 361.159, inclusive, or chapter 701A of NRS from the taxes imposed on real property by chapter 361 of NRS;~~
- ~~—— (h) The name and contact information of the professional accredited by the U.S. Green Building Council or the Green Building Initiative and assigned to the design team for the project or other person designated as the contact person on the application;~~
- ~~—— (i) A statement whether the building or other structure, or any part thereof, is or is expected in the future to be exempt from the taxes imposed on real property by chapter 361 of NRS pursuant to any provision of law other than NRS 361.045 to 361.159, inclusive, or chapter 701A of NRS;~~
- ~~—— (j) A list of any improvements in the project that are not expected to be considered for certification under the applicable LEED standard or Green Globes standard;~~
- ~~—— (k) If the project is registered with the U.S. Green Building Council or the Green Building Initiative in a campus or multibuilding setting, a list of the buildings or other structures on the affected real property and the construction phases of each building or other structure;~~
- ~~—— (l) A copy of the local government approval of the construction project; and~~
- ~~—— (m) Any other information requested by the Director.~~

Intent:

Remove language that will be on the prescribed application which will list and include all of the requirements identified to determine eligibility of the project.

3. Upon receipt of all *documentation and* information required by this section *and the prescribed registration application form*, the Director will *proceed in accordance with the provisions of NRS 701A.110(1)(b)(3)*:

- ~~(a) Notify the applicant in writing acknowledging that the application has been received; and~~
- ~~—— (b) In accordance with the provisions of NRS 701A.110, forward a copy of the application and the written notification provided to the applicant to the:

 - ~~—— (1) Chief of the Budget Division of the Office of Finance;~~~~

- ~~— (2) Department of Taxation;~~
- ~~— (3) County assessor;~~
- ~~— (4) County treasurer;~~
- ~~— (5) Board of county commissioners;~~
- ~~— (6) City manager and city council, if any; and~~
- ~~— (7) Office of Economic Development.~~

4. The applicant must:

(a) Identify any information included in the application which the applicant considers to be confidential; and

(b) Submit to the Director the prescribed registration application form and all documentation requested

~~(b-c)~~ Promptly amend the application if there is a significant change in the scope of the project.

5. The Director will not accept an application pursuant to this section for a building or other structure that on the date the application is registered has been issued a certificate of occupancy and has been certified by the U.S. Green Building Council or the Green Building Initiative.

Intent:

Clean up language clarifying that the Director will proceed once all documentation and prescribed forms are received. Adds in a requirement that the applicant must submit the prescribed form and documentation.

Remove redundant language that is already part of NRS 701A.110(b)(3)

(Added to NAC by Office of Energy by R116-07, eff. 12-4-2007; A by R127-13, 6-23-2014)

NAC 701A.225 Fee for review and approval of application and determination of eligibility. (NRS 701A.100, 701A.110)

1. An applicant shall pay to the Director a fee ~~in the amount of \$1,750~~ for the review and approval of an application *and a separate fee for the determination of eligibility at the initial submission of proof and a separate fee annually thereafter for the continuing determination of eligibility, until the abatement is terminated or otherwise expires,* ~~submitted~~ pursuant to NRS 701A.110. An applicant shall pay the fee concurrently with the submission of his or her application, *initial submission of proof of eligibility and each annual submission*. The Director will not approve an application *or determine eligibility* for which the fee has not been timely paid pursuant to this subsection.

2. The Director will review each fee prescribed by subsection 1 on or before December 31 of each even-numbered year to ensure that the amount of the fee reflects the actual cost to the Office of Energy in carrying out the duties described in subsection 1.

3. The fees collected pursuant to subsection 1 must be deposited by the Director into an interest-bearing account. The money deposited pursuant to this subsection and any interest

earned on such money must be used only to pay the costs incurred by the Office of Energy in carrying out the duties described in subsection 1.

(Added to NAC by Office of Energy by R127-13, eff. 6-23-2014)

Intent:

Remove actual dollar amount of fee as each separate fee will be identified on the prescribed forms.

Reasoning:

Separate fees and require them to be due with each submission so that the fees are reflective of the part of the process that is being paid for. Upon registration pay \$525, Upon determining eligibility \$525 and then each year upon submission of proof of continual eligibility pay \$525.

Currently the fee is \$1750, this covers the registration, the initial determination and only one year of annual determination. Some projects are 10-year projects which means they would submit reports for 6-7 years as currently it starts on year 3. This means that 5-6 years of annual determinations are not being accounted for and essentially being done without charging the applicant. The new proposed way of charging and collecting the fees would be more in line with NRS 701A.110(11).

~~**NAC 701A.230 — Amendment of application after significant change in scope of project. (NRS 701A.110, § 15.5 of ch. 539, Stats. 2007)**~~

~~—1. If an application for a partial tax abatement is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of the project after that date, the applicant must amend the application to include the change within 60 days after the occurrence of the change. If the applicant fails to amend the application in a timely manner, the Director may, without limitation:~~

~~—(a) Allow a partial tax abatement of those portions of the project that were part of the original application, including timely amendments; or~~

~~—(b) For good cause shown, extend the time within which to amend the application.~~

~~—2. Upon receipt of an amendment to an application for a partial tax abatement, the Director will forward a copy of the amendment to the:~~

~~—(a) Chief of the Budget Division of the Office of Finance;~~

~~—(b) Department of Taxation;~~

~~—(c) County assessor;~~

~~—(d) County treasurer;~~

~~—(e) Board of county commissioners;~~

~~—(f) City manager and city council, if any; and~~

~~—(g) Office of Economic Development.~~

Intent:

Remove language that is not necessary. The time frame to submit the amended application will be on the prescribed forms.

Remove redundant language that is already part of NRS 701A.110(b)(3)

~~—(Added to NAC by Office of Energy by R116-07, eff. 12-4-2007; A by R127-13, 6-23-2014)~~

NAC 701A.240 Submission of required proof or application for extension; issuance and contents of certificate of eligibility or certificate of ineligibility; effective date of abatement. (NRS 701A.110, § 15.5 of ch. 539, Stats. 2007)

1. Within 48 months after an application for a partial tax abatement is submitted to the Director pursuant to [NAC 701A.220](#), or within such time as the Director, for good cause shown, extends the deadline, the applicant must submit to the Director:

(a) The prescribed certificate of eligibility application form and all required documentation identified therein.

(b) All invoices supporting the costs of improvements to an existing building or other structure.

~~(a c)~~ Proof that the building or other structure:

(1) Meets the silver level or higher of the LEED Green Building ~~Standard Rating System~~ adopted by the Director pursuant to [NAC 701A.200](#); or

(2) Obtains a rating of two globes or higher under a Green Globes standard adopted by the Director pursuant to ~~NAC 701A.200~~ [NAC 701A.213](#); or

~~(b d)~~ An application to extend the period for providing such proof.

2. If an applicant has not submitted the proof or an application for extension required by subsection 1, the Director will consider the application abandoned *and provide notification pursuant to NRS 701A.110. notify the:*

~~—(a) Applicant;~~

~~—(b) Chief of the Budget Division of the Office of Finance;~~

~~—(c) Department of Taxation;~~

~~—(d) County assessor;~~

~~—(e) County treasurer;~~

~~—(f) Board of county commissioners;~~

~~—(g) City manager and city council, if any; and~~

~~—(h) Office of Economic Development.~~

3. If the Director, after reviewing the proof submitted by the applicant pursuant to subsection 1, concludes that the building or other structure is eligible for a partial tax abatement, the Director will, not later than 120 days after receiving that proof, issue a certificate of eligibility for the abatement and provide a copy *pursuant to NRS 701A.110(3). to the:*

~~—(a) Applicant;~~

~~—(b) Chief of the Budget Division of the Office of Finance;~~

~~—(c) Department of Taxation;~~

- ~~—(d) County assessor;~~
- ~~—(e) County treasurer;~~
- ~~—(f) Board of county commissioners;~~
- ~~—(g) City manager and city council, if any; and~~
- ~~—(h) Office of Economic Development.~~

4. The certificate of eligibility will include the duration and annual percentage of the partial tax abatement as provided in NAC 701A.280 and subsection 5 of NRS 701A.110, and identify each building or other structure to which the abatement should be applied. The Director may indicate that the abatement should be applied to an ancillary structure if the ancillary structure was specified in the application. The Director will include as part of the certificate of eligibility his or her findings of fact, conclusions of law and order explaining the reasons for issuing the certificate.

5. If the Director, after reviewing the proof submitted by the applicant pursuant to subsection 1, concludes that the building or other structure is not eligible for a partial tax abatement, the Director will, not later than 120 days after receiving that proof, issue a certificate of ineligibility for the abatement and provide a copy *pursuant to NRS 701A.110(3)*. ~~to the:~~

- ~~—(a) Applicant;~~
- ~~—(b) Chief of the Budget Division of the Office of Finance;~~
- ~~—(c) Department of Taxation;~~
- ~~—(d) County assessor;~~
- ~~—(e) County treasurer;~~
- ~~—(f) Board of county commissioners;~~
- ~~—(g) City manager and city council, if any; and~~
- ~~—(h) Office of Economic Development.~~

Intent:

Update language from rating system to standard and reference to NAC. Remove redundant language already part of NRS 701A.110(3)

Ê The Director will include as part of the certificate of ineligibility his or her findings of fact, conclusions of law and order explaining the reasons for issuing the certificate of ineligibility.

6. If a certificate of eligibility is issued:

(a) On or after July 1 and on or before March 31 of a fiscal year, the abatement becomes effective on July 1 of the immediately following fiscal year. The Director will not issue a certificate of eligibility on or before March 31 of a fiscal year with respect to an application that is not submitted to the Director on or before ~~February~~ *December 1* of that fiscal year.

(b) On or after April 1 and on or before June 30 of a fiscal year, the abatement becomes effective on July 1 of the fiscal year next following the immediately following fiscal year.

7. A certificate of eligibility or a certificate of ineligibility issued pursuant to this section is a final order of the Director for purposes of judicial review.

Intent:

Update the final submission deadline for the following fiscal year award to December instead of February to stay consistent with the 120-day time frame already identified in NAC 701A.240(3)

(Added to NAC by Office of Energy by R116-07, eff. 12-4-2007; A by R127-13, 6-23-2014)

~~— NAC 701A.250 Required proof that building meets requirements of applicable standard; additional required documentation. (NRS 701A.110, § 15.5 of ch. 539, Stats. 2007)~~

~~— 1. Except as otherwise provided in subsection 2, the Director will accept as proof submitted pursuant to paragraph (a) of subsection 1 of NAC 701A.240:~~

~~— (a) An original or certified copy of a letter from:~~

~~— (1) The U.S. Green Building Council informing the applicant that the building or other structure meets the LEED silver level or higher; or~~

~~— (2) The Green Building Initiative informing the applicant that the building or other structure qualifies for a rating of two globes or higher under a Green Globes standard;~~

~~— (b) Official documentation issued by the U.S. Green Building Council or Green Building Initiative setting forth the number of points obtained by the building or other structure under the applicable LEED standard or Green Globes standard; or~~

~~— (c) Any other information acceptable to the Director that, in the judgment of the Director, evidences compliance with the requirements of the LEED Green Building Rating System or a Green Globes standard, as applicable.~~

~~— 2. In addition to the documentation required by subsection 1, the proof submitted pursuant to this section must include:~~

~~— (a) A statement whether any funding for the acquisition, design or construction of the building or other structure, and associated land, is being provided by a governmental entity in this State;~~

~~— (b) A statement whether the building or other structure is receiving or is expected to receive any other abatement or exemption pursuant to NRS 361.045 to 361.159, inclusive, or chapter 701A of NRS from the taxes imposed on real property by chapter 361 of NRS;~~

~~— (c) A statement whether the building or other structure, or any part thereof, is or is expected in the future to be exempt from the taxes imposed on real property by chapter 361 of NRS pursuant to any provision of law other than NRS 361.045 to 361.159, inclusive, or chapter 701A of NRS;~~

~~— (d) An overall project narrative;~~

~~— (e) The documentation submitted to the U.S. Green Building Council or Green Building Initiative, as applicable, to obtain points for water efficiency under the LEED Green Building Rating System or a Green Globes standard;~~

~~— (f) For pre-2007 applicants:~~

- ~~— (1) The documentation submitted to the U.S. Green Building Council to comply with the LEED Green Building Rating System Energy and Atmosphere Prerequisite 2 (Minimum Energy Performance); or~~
- ~~— (2) Any documentation that, in the judgment of the Director, demonstrates the energy efficiencies achieved through compliance with the LEED Green Building Rating System Energy and Atmosphere Prerequisite 2 (Minimum Energy Performance); and~~
- ~~— (g) For applicants other than pre-2007 applicants:~~
 - ~~— (1) The documentation submitted to the U.S. Green Building Council or Green Building Initiative, as applicable, to obtain points under the LEED Green Building Rating System or a Green Globes standard, including, without limitation, any pertinent information regarding general building energy model, energy performance, building energy performance baseline, baseline and proposed design input parameters, baseline performance, performance rating, percentage improvement and points achieved; or~~
 - ~~— (2) Any documentation that, in the judgment of the Director, demonstrates the energy efficiencies achieved through compliance with the LEED Green Building Rating System or a Green Globes standard, as applicable.~~
- ~~— (Added to NAC by Office of Energy by R116-07, eff. 12-4-2007; A by R127-13, 6-23-2014)~~

Intent:

Remove requirement language from code that will be identified on the prescribed certificate of eligibility submission form.

NAC 701A.260 *Submission of proof of annual eligibility*, Submission of information regarding receipt of another abatement or exemption; designation and duties of tax abatement coordinator for building; suspension of certificate of eligibility; issuance of certificate of termination or reduction of eligibility. ([NRS 701A.110](#), § 15.5 of ch. 539, Stats. 2007)

1. *After a Certificate of Eligibility has been issued, the applicant for the project to which the certificate of eligibility relates, shall provide on an annual basis, the prescribed annual determination form and all required documentation and statements identified therein, to determine continuous eligibility of the project, throughout the term of the abatement.*

Intent:

Identify that each project must annually submit a prescribed form and documentation in order to determine continuous eligibility for the abatement. This form and documentation will be required annually on the anniversary date of the issuance of the abatement. i.e. The abatement is awarded on June 3, then each year until the final year of the abatement the project will be required to submit the form and proof on June 3 to the GOE.

~~The Director may require an applicant who has been issued a certificate of eligibility pursuant to [NAC 701A.240](#) or the tax abatement coordinator for a building or other structure to which the~~

~~certificate of eligibility relates to submit to the Director on an annual or other reasonable basis such information as the Director requires to determine whether the parcel on which the building or other structure is located is receiving another abatement or exemption pursuant to NRS 361.045 to 361.159, inclusive, or chapter 701A of NRS from the taxes imposed on real property by chapter 361 of NRS.~~

~~— 2. After a certificate of eligibility has been issued pursuant to NAC 701A.240, the tax abatement coordinator for a building or other structure to which the certificate of eligibility relates:~~

~~— (a) Shall:~~

~~— (1) Notify the Director if the building or other structure is sold during the term of the partial tax abatement; and~~

~~— (2) Provide the buyer of the building or other structure with written notice of the certificate of eligibility and a copy of the statutes and regulations regarding the owner's rights and responsibilities relating to the certificate of eligibility;~~

~~— (b) Must submit to the Director as prescribed in subsection 3:~~

~~— (1) Documentation of energy performance which indicates the pertinent ENERGY STAR rating or equivalent ENERGY STAR rating, annual energy reduction, annual summer peak demand reduction and, if the applicant for that certificate of eligibility:~~

~~— (I) Qualified as a pre-2007 applicant, compliance with the requirements for the LEED Green Building Rating System Energy and Atmosphere Prerequisite 2 (Minimum Energy Performance); or~~

~~— (II) Did not qualify as a pre-2007 applicant, compliance with the requirements of the LEED Green Building Rating System or a Green Globes standard, as applicable;~~

~~— (2) A summary of the annual utility bills, including the amount of cost and usage, for each type of energy used by the building or other structure;~~

~~— (3) A summary of the annual water bills, including the amount of cost and usage, for the building or other structure; and~~

~~— (4) Any other documentation that, in the judgment of the Director, demonstrates compliance with the LEED Green Building Rating System or a Green Globes standard, as applicable; and~~

~~— (c) Must submit to the Director as prescribed in subsection 3 written recertification from a third party commissioning firm or third party assessor, as applicable, stating that the energy systems of the building or other structure are still operating in general compliance with the original project requirements, with particular focus and emphasis on certifying that the energy conservation measures upon which the original certificate of eligibility was based are still being achieved. The third party commissioning firm or third party assessor, as applicable, providing the recertification letter should typically be the same firm or assessor that provided the original fundamental building systems commissioning or assessment or existing building commissioning or assessment services on the project.~~

~~— 3. The documentation required by:~~

~~— (a) Paragraph (b) of subsection 2 must be submitted on or before March 15 of the third and each subsequent year after the certificate of eligibility was issued.~~

~~— (b) Paragraph (c) of subsection 2 must be submitted within 60 days after the end of the:~~

~~— (1) Third year after the certificate of eligibility was issued if the duration of the partial tax abatement is 5 or 6 years;~~

~~—— (2) Third and fifth years after the certificate of eligibility was issued if the duration of the partial tax abatement is 7 or 8 years; and~~

~~—— (3) Third, fifth and seventh years after the certificate of eligibility was issued if the duration of the partial tax abatement is 9 or 10 years.~~

Intent:

Removes the language which will be on the prescribed annual determination form.

Removes the requirement to submit separate reports and instead require a statement annually from a third party that has evaluated and analyzed the data provided through the ENERGY STAR statement of performance and utility bills to certify to the GOE that the project is still complying with the original terms of the abatement and should continue to be awarded the abatement.

Reasoning:

The third-party consultant should be able to analyze the data provided by the applicant and provide a summary and statement of that data confirming the project is still in compliance. This does not have to be an Energy Audit or a Commissioning report, it can be less expensive if the consultant understands what is being required to continue receiving the abatement. This also allows the GOE to rely on data provided by the third party instead of just the data provided by the applicant. These revisions essentially combine both of the requirements and request the information on an annual basis instead of the 3, 5, and 7 years as shown above.

4. *Upon determining that the project continues to meet the requirements of the abatement awarded, the Director will provide an acknowledgement to the applicant and send notification pursuant to NRS 701A.110.*

Intent:

Add in language which identifies that after the annual determination, the Director will provide an acknowledgement of the determination.

5. Upon determining that the parcel on which the building or other structure is located is receiving another abatement or exemption pursuant to [NRS 361.045](#) to [361.159](#), inclusive, or [chapter 701A](#) of NRS from the taxes imposed on real property by [chapter 361](#) of NRS, the Director will notify the owner of the building or other structure and the Department of Taxation in writing that the certificate of eligibility relating to the building or other structure has been suspended, and indicate the term of the suspension.

5. 6. Upon determining that the building or other structure may have ceased to qualify for the level of certification for which the partial tax abatement was issued, or that the owner of the building or other structure may have failed to comply with any conditions imposed by the Director in issuing the partial tax abatement, the Director will notify the owner of the building or other structure of the findings of the Director and provide the owner a reasonable opportunity to

cure any noncompliance issues included in the findings. If the owner fails to cure the noncompliance issues within the time or in accordance with the terms provided by the Director, the Director will issue a certificate of termination or reduction of eligibility, including his or her findings of fact, conclusions of law and order, which declares that the building or other structure has ceased to meet the standard upon which the certificate of eligibility was based, specifies the areas of noncompliance, and terminates the partial tax abatement or reduces the partial tax abatement to the level of certification for which the building or other structure qualifies. The Director will provide a copy of the certificate of termination or reduction of eligibility *pursuant to NRS 701A.110(7)(b)*. ~~to the:~~

- ~~— (a) Owner of the building or other structure;~~
- ~~— (b) Chief of the Budget Division of the Office of Finance;~~
- ~~— (c) Department of Taxation;~~
- ~~— (d) County assessor;~~
- ~~— (e) County treasurer;~~
- ~~— (f) Board of county commissioners;~~
- ~~— (g) City manager and city council, if any; and~~
- ~~— (h) Office of Economic Development.~~

Intent:

Remove redundant language already part of NRS 701A.110

6. A certificate of termination or reduction of eligibility issued pursuant to this section is a final order of the Director for purposes of judicial review.

7. ~~For the purposes of this section:~~

- ~~— (a) On or before the date of submission to the Director of proof that a building or other structure meets the equivalent of the silver level or higher of the LEED Green Building Rating System or the rating of two globes or higher under a Green Globes standard, the applicant for a partial tax abatement shall designate a tax abatement coordinator for the building or other structure, and submit the name and address of the tax abatement coordinator to the Director; and~~
- ~~— (b) Within 60 days after:
 - ~~— (1) The sale or other transfer of ownership of the building or other structure during the term of the partial tax abatement, the purchaser or other transferee shall designate a tax abatement coordinator for the building or other structure, and submit the name and address of the tax abatement coordinator to the Director; and~~
 - ~~— (2) The designation of any successor tax abatement coordinator for the building or other structure during the term of the partial tax abatement, the successor shall submit his or her name and address to the Director.~~~~

(Added to NAC by Office of Energy by R116-07, eff. 12-4-2007; A by R127-13, 6-23-2014)

Intent:

Remove language that is not necessary in code.

Reasoning:

The designation of a tax abatement coordinator is currently not being practiced on all project submissions. Not all projects have a tax abatement coordinator and they aren't always being updated with our offices. The requirement to provide and update the contact and or the tax abatement coordinator for the project will be on the prescribed forms.

~~**NAC 701A.270—Building included in construction project registered with Office of Energy before June 15, 2007: Submission and processing of application for partial tax abatement; provisions applicable to pre-2007 applicant. (NRS 701A.110, § 15.5 of ch. 539, Stats. 2007)**~~

~~— 1. The owner of a building or other structure included in a construction project which was registered with the Office of Energy before June 15, 2007, for a partial tax abatement may submit an application to the Director pursuant to NAC 701A.220 upon providing proof to the Director that the owner qualifies as a pre-2007 applicant. Upon determining that the owner qualifies as a pre-2007 applicant, the Director will expedite the processing of the application and apply all the provisions of NAC 701A.010 to 701A.290, inclusive, except that:~~

~~— (a) The owner is not required to submit the application within 120 days after receiving local government approval of the construction project or registering the project with the U.S. Green Building Council;~~

~~— (b) The Director will base his or her determination of eligibility on the Pre-2007 Green Building Rating System;~~

~~— (c) Any partial tax abatement will be:~~

~~— (1) Based on the provisions of section 15.5 of chapter 539, Statutes of Nevada 2007; and~~

~~— (2) Limited to any building or other structure that, in the judgment of the Director, is reasonably related to any preconstruction or construction contracts submitted as proof that the owner qualifies as a pre-2007 applicant; and~~

~~— (d) For the purposes of NAC 701A.010 to 701A.290, inclusive, “funding” shall be deemed to mean any cash or cash equivalent, including any loan or bond, except a private activity bond.~~

~~— 2. The owner of a building or other structure included in a construction project which was registered with the Office of Energy before June 15, 2007, for a partial tax abatement that does not qualify as a pre-2007 applicant may submit an application to the Director pursuant to NAC 701A.220. The Director will expedite the processing of the application.~~

Intent:

Remove inapplicable language.

Reasoning:

The only PRE2007 projects that are still in the program will sunset as of June 30, 2020. There are no further PRE2007 projects submitting registration applications or proof of eligibility. Out of the 10 PRE2007 projects in the program, one sunset in June 2016, one is in the last year of the abatement and will sunset as of June 2019 and the eight remaining projects, seven of which are the City Center projects, will sunset as of June 2020. There is only one more year of compliance reporting required and the documentation that needs to be submitted can be identified on the prescribed form.

~~—(Added to NAC by Office of Energy by R116-07, eff. 12-4-2007)~~

NAC 701A.280 Duration of partial tax abatement based upon number of points awarded for energy conservation by U.S. Green Building Council or Green Building Initiative. (NRS 701A.110)

1. If the Director issues a certificate of eligibility pursuant to [NAC 701A.240](#) for a building or other structure *that registered as a new construction project with the Director, and* that meets the equivalent of the silver level or higher under the *currently adopted* LEED *Version standard for LEED-NC or LEED-CS*, or that meets the equivalent of the rating of two globes or higher under the *currently adopted* Green Globes *Version standard for GG-NC*, the Director will set the duration of the partial tax abatement for the building or other structure based upon the number of points awarded by the U.S. Green Building Council or Green Building Initiative, as applicable, for energy conservation in the Optimize Energy Performance credit or Energy Performance section under the applicable LEED standard or Green Globes standard as provided in the following table:

Intent:

Clean up language to be consistent with NAC 701A.200 and 701A.220

LEED or Green Globes Certification Level	5-6 points in the Optimize Energy Performance credit category (LEED) or 32-39 28-35 points in the Energy Performance section (Green Globes)	7-10 points in the Optimize Energy Performance credit category (LEED) or 40-55 36-51 points in the Energy Performance section (Green Globes)	11- 12 points in the Optimize Energy Performance credit category (LEED) or 56-63 52 or more points in the Energy Performance section (Green Globes)	13-14 points in the Optimize Energy Performance credit category (LEED) or 64-71 points in the Energy Performance section (Green Globes)	15-16 points in the Optimize Energy Performance credit category (LEED) or 72-79 points in the Energy Performance section (Green Globes)	17-21 points in the Optimize Energy Performance credit category (LEED) or 80-100 points in the Energy Performance section (Green Globes)
Silver level or 2 globes	25 percent abatement for 3 5 years	25 percent abatement for 4 6 years	25 percent abatement for 5 7 years	25 percent abatement for 8 years	25 percent abatement for 9 years	25 percent abatement for 10 years
Gold level or 3 globes	25 30 percent abatement for 5 years	30 percent abatement for 6 years	30 percent abatement for 7 years	30 percent abatement for 8 years	30 percent abatement for 9 years	30 percent abatement for 10 years
Platinum level or 4 globes	25 35 percent abatement for 5 7 years	30 35 percent abatement for 6 8 years	35 percent abatement for 7 9 years	35 percent abatement for 8 years	35 percent abatement for 9 years	35 percent abatement for 10 years

Intent:

Update the points required under GG to be consistent with the requirements for the same points under LEED. Update the percentages to be consistent with NRS 701A.110(5)(a). Change the term of the abatement to be tiered but not longer than 9 years total. Remove the last three tiers of the abatement.

Reasoning: Upon review of the LEED v4 rating systems it has been determined that the percentage improvement in the proposed building design over the baseline is not significant. In order to meet the minimum OEP points dictated in NRS 701A.100. LEED v4 for new construction only requires a 10% improvement over the baseline to obtain 5 points, an 18% improvement for 7 points and a 26% improvement for 11 points. The baseline is the ASHRAE 90.1-2010, which is used along with the 2012 International Energy Conservation Code. The GOE is in the process of adopting the 2018 International Energy Conservation Code which makes the baseline that the comparison is made against, two code cycles behind and less stringent than what is being adopted in the state. The update to the terms of the abatement are reflective of the minimal requirements to obtain the points within LEED.

2. If the Director issues a certificate of eligibility pursuant to [NAC 701A.240](#) for a building or other structure *that registered as an existing building renovation project with the Director, and* that meets the equivalent of the silver level or higher under the *currently adopted* LEED *Version standard for LEED-EB*, or that meets the equivalent of the rating of two globes or higher under the *currently adopted* Green Globes *Version standard for GG-CIEB*, the Director will set the duration of the partial tax abatement for the building or other structure based upon the number of points awarded by the U.S. Green Building Council or Green Building Initiative, as applicable, for energy conservation in the Optimize Energy Performance credit or Energy Performance section under the applicable LEED standard or Green Globes standard as provided in the following table:

Intent:
Clean up language to be consistent with NAC 701A.200 and 701A.220

LEED or Green Globes Certification Level	5-6 points in the Optimize Energy Performance credit category (LEED) or 32-39 points in the Energy Performance section (Green Globes)	7-10 points in the Optimize Energy Performance credit category (LEED) or 40-47 55 points in the Energy Performance section (Green Globes)	11 or more- 12 points in the Optimize Energy Performance credit category (LEED) or 48 or more 56-63 points in the Energy Performance section (Green Globes)	13-14 points in the Optimize Energy Performance credit category (LEED) or 64-71 points in the Energy Performance section (Green Globes)	15-16 points in the Optimize Energy Performance credit category (LEED) or 72-79 points in the Energy Performance section (Green Globes)	17-21 points in the Optimize Energy Performance credit category (LEED) or 80-100 points in the Energy Performance section (Green Globes)
Silver level or 2 globes	25 percent abatement for 3 5 years	25 percent abatement for 3 5 years	25 percent abatement for 3 5 years	25 percent abatement for 5 years	25 percent abatement for 5 years	25 percent abatement for 5 years
Gold level or 3 globes	25 30 percent abatement for 4 5 years	30 percent abatement for 4 5 years	30 percent abatement for 4 5 years	30 percent abatement for 5 years	30 percent abatement for 5 years	30 percent abatement for 5 years
Platinum level or 4 globes	25 35 percent abatement for 5 years	30 35 percent abatement for 5 years	35 percent abatement for 5 years	35 percent abatement for 5 years	35 percent abatement for 5 years	35 percent abatement for 5 years

(Added to NAC by Office of Energy by R116-07, eff. 12-4-2007; A by R127-13, 6-23-2014)

Intent:

Update the points required under GG to be consistent with the requirements for the same points under LEED. Update the percentages to be consistent with NRS 701A.110(5)(b). Change the term of the abatement to be tiered but not longer than 5 years total. Remove the last three tiers of the abatement.

Reasoning:

Upon review of the LEED v4 rating systems it has been determined that the ENERGY STAR ratings required to obtain the OEP points, which is based on the performance of the building compared to the national average, is not hugely significant. In order to meet the minimum OEP points dictated in NRS 701A.100. LEED v4 for existing buildings only requires a 78 ENERGY STAR to obtain 5 points, an 80 ENERGY STAR for 7 points and an 84 ENERGY STAR for 11 points. The baseline is the ASHRAE 90.1-2010, which is used along with the 2012 International Energy Conservation Code. The GOE is in the process of adopting the 2018 International Energy Conservation Code which makes the baseline that the comparison is made against, two code cycles behind and less stringent than what is being adopted in the state. The update to the terms of the abatement are reflective of the minimal requirements to obtain the points within LEED.

NAC 701A.290 Waiver of requirements by Director. ([NRS 701A.110](#), § 15.5 of ch. 539, Stats. 2007) The Director may waive one or more of the requirements of [NAC 701A.010](#) to [701A.290](#), inclusive, applicable to an applicant for a partial tax abatement if:

1. ~~The applicant would have been able to comply with the requirement on or after June 15, 2007, if the form for application pursuant to [NAC 701A.010](#) to [701A.290](#), inclusive, had been available and the provisions of [NAC 701A.010](#) to [701A.290](#), inclusive, had been effective on that date; and~~

2. In the judgment of the Director, the failure to waive the requirement would produce an unjust result.

(Added to NAC by Office of Energy by R116-07, eff. 12-4-2007)

Intent:

Remove reference to PRE2007 projects where the code no longer applies

New Section:

Green Building Tax Abatement restrictions:

1 – A campus energy score shall not be accepted for a building or other structure that is being considered for or has been granted an individual certification from one of the adopted rating systems. The energy score used to determine the applicable energy points within that rating system must be calculated based on the building or structure within the submitted project and must not include any other buildings or structures identified in a separately submitted project.

Intent:

Eliminate bootstrapping inefficient buildings or structures into project

2—A building or other structure shall not include any space used for vehicle parking.

Intent:

Eliminate parking structures from consideration

Reasoning:

Parking structures often charge to park a vehicle, awarding an abatement on a structure that charges a citizen does not seem logical.

Parking structures that are larger than the project being awarded an abatement are creating a benefit for the project. The project uses the square footage of the parking structure to create a better energy use intensity which allows the project to receive a higher score in the energy consumption or performance categories. This could award an abatement at a higher amount or longer term.

3—Only one partial tax abatement may be granted per parcel. If a building or other structure encompasses more than one parcel, only one partial tax abatement may be granted for the building or structure.

Intent:

Eliminate serial abatements on a parcel

4—If a partial tax abatement has ever been granted for a parcel in the past, no partial tax abatement may be granted for that parcel in the future.

Intent:

Eliminate serial abatements on a parcel

5—If a partial tax abatement has ever been granted for a building or other structure in the past, no partial tax abatement may be granted for that building or other structure in the

Intent:

Eliminate serial abatements for a building or other structure

future.

6—1. At the time an applicant submits a project registration application with the Governor’s Office of Energy, the applicant must demonstrate that the building or other structure does not currently qualify for any level of certification from one of the adopted rating systems.

2. Any building or other structure that would qualify under one of the adopted rating systems at the time of submitting the registration application shall not be considered for a partial tax

Intent:

Restrict abatements to only those buildings or other structures that don’t already qualify for a certification

Reasoning:

The GOE is awarding abatements for existing building projects where the building(s) already qualify for the minimums under LEED or GG. This is not incentivizing any improvements in the project; it is awarding the building for already implementing measures, potentially in the initial design of the project. These measures could have been implemented years before but are now being utilized for an incentive. The GOE wants to incentivize improvements that are made between the time of registration and certificate of eligibility.

abatement.

7 —To the extent that the regulations in NAC Chapter 701A do not address a situation presented to the Director for consideration of a partial tax abatement, the application may be

Intent:

Catch-all to prevent abuse of any loophole

deemed denied.